

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JULY 20, 1989

Jack Douglas
President
Electrum Recovery Works, Inc.
827 Martin Street
Rahway, New Jersey 07065

Dear Mr. Douglas:

This letter responds to your June 5, 1989 letter, as well as the May 22, 1989 letter from your attorney, Ms. Deborah S. Kinburn. Both of these letters concerned the regulatory status under the Resource Conservation and Recovery Act (RCRA) of the solder skimmings (tin/lead alloy) you purchase from the electrical and electronics industries for reclamation.

As Ms. Kinburn's letter discusses, the solder skimmings are nonlisted "by-products" that are hazardous by exhibiting a hazardous characteristic; however, because they are reclaimed, they are not solid wastes and, therefore, are not hazardous wastes exempt from the federal hazardous waste regulatory scheme. What you are requesting from EPA is a determination that these materials are also "scrap metal" that is being reclaimed. The main reason for this request is that the New Jersey Department of Environmental Protection (DEP) does not exempt nonlisted by-products that are reclaimed from State regulation as hazardous wastes and has encouraged you to seek a regulatory determination on the material's possible status as a scrap metal (which presumably is exempt from State regulation when reclaimed).

Your determination that the solder skimmings are scrap metal is based principally on the relative value of the solder skimmings and on the similarities between the reclamation processes for the solder skimmings and metal turnings, which are identified as scrap metal in the regulatory definition of scrap metal. However, the regulatory definition of scrap metal is not based on either the value of the material or the process by which it is reclaimed. Rather, the definition of scrap metal is based more on a material's physical appearance and previous use.

At 40 CFR 261.1 (c)(6), scrap metal is defined as "... bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled." The typical definition of dross or skimmings would not meet this definition. Nor do the samples you sent to EPA meet the definition of scrap metal. Therefore, EPA does not concur with you that the solder skimmings are scrap metal.

You should note that State and local regulatory agencies may have applicable regulations that differ from Federal regulations. You should also contact your State regulatory agency, as well as the appropriate EPA Regional office for further information on the regulatory status of the drive.

For more information, please contact the RCRA Hotline at 1-800-424-9346, or the EPA Region II office. You may also call me at (202) 382-4805.

Sincerely,

Mitch Kidwell
Environmental Protection Specialist
Review Section